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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/720,898

Applicant(s)

WYBENGA ET AL.

Examiner

SYED BOKHARI

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-9, 11-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-9, 11-17 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 3-9, 11-17 and 19-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term "N layer" is vague and indefinite as the "N" has not been defined in the claim.

Regarding claim 3, the term "R route" is vague and indefinite as the "R" has not been defined in the claim.

Regarding claim 9, the term "N layer" is vague and indefinite as the "N" has not been defined in the claim.

Regarding claim 11, the term "R route" is vague and indefinite as the "R" has not been defined in the claim.

Regarding claim 17, the term "N layer" is vague and indefinite as the "N" has not been defined in the claim.

Regarding claim 19, the term "R route" is vague and indefinite as the "R" has not been defined in the claim.

Claims 4-8, 12-16 and 20-24 are rejected as being dependent to claims 1, 9 and 17 respectively.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3-4, 6-9, 11-12, 14-17, 19-20 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Civanlar et al. (USP 6,078,963) in view of Kumar et al. (US 2004/0156371 A1) and further in view of Johnson et al. (US 6,097 772).

Civanlar et al. discloses a communication system for all of the ports in a router independently perform routing and forwarding functions with the following features: regarding claim 1, for use in a telecommunication network, a router (100) comprising a switch fabric (102) (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44); N Layer 2 modules coupled by the switch fabric (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10), wherein a first one of the Layer 2 modules comprises a Layer 3 routing engine (107) capable of forwarding a first received data packet through the switch fabric directly to a second one of the Layer 2 modules using a Layer 3 address associated with the first received data packet if the first Layer 2 module does not recognize a Layer 2 address associated with the first received data packet (Fig. 1, a router 100 and switch fabric 102, see "processing routing data by forwarding engine 105" recited in column 3 lines 28-47) and wherein the Layer 3 routing engine comprises a forwarding table comprising a plurality of aggregated Layer 3 addresses (Fig. 1, router with intelligent ports, see "generates its own routing table" recited in column 3 lines 28-33); regarding claim 3, further comprising R route processing modules coupled to the switch fabric (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44), wherein the first Layer 2 module transmits the first received data packet to a first one of the R route processing modules

(Fig. 4, intelligent router port 103, see "routing data forwarded back to external interface step 425" recited in column 8 lines 23-30) and if the Layer 3 routing engine determines that the forwarding table does not contain the Layer 3 address associated with the first received data packet (Fig. 4, intelligent router port 103, see "when address does not exist step 420" recited in column 8 lines 9-15); regarding claim 4, wherein the switch fabric transmits the first received data packet to the first route processing module (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10) and by selecting the first route processing module using a load distribution algorithm (Fig. 1, a router 100, see "switch fabric 102 maintains distributed control" recited in column 3 lines 16-22); regarding claim 6, wherein the Layer 2 frames are Ethernet frames (Fig. 3, intelligent routing port 103, see "data link layer processing" recited in column 7 lines 48-50); regarding claim 7, wherein the Layer 3 data packets are Internet protocol (IP) data packets (Fig. 1, a router 100, see "internet protocol (IP) packet address" recited in column 3 lines 55-65); regarding claim 8, wherein the switch fabric is a Layer 2 switch (Fig. 1, a router 100, see "layer-2 switch fabric 102" recited in column 4 lines 11-28); regarding claim 9, A telecommunication network comprising a plurality of routers, each of the routers comprising a switch fabric (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44), N Layer 2 modules coupled by the switch fabric (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10), wherein a first one of the Layer 2 modules comprises a Layer 3 routing engine for forwarding a first received data packet through the switch fabric directly to a second one of the Layer 2 modules using a Layer 3 address associated with the first received data

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packet if the first Layer 2 module does not recognize a Layer 2 address associated with the first received data packet (Fig. 1, a router 100 and switch fabric 102, see "processing routing data by forwarding engine 105" recited in column 3 lines 28-47) and wherein the Layer 3 routing engine comprises a forwarding table comprising a plurality of aggregated Layer 3 addresses (Fig. 1, router with intelligent ports, see "generates its own routing table" recited in column 3 lines 28-33); regarding claim 11, wherein the each router further comprises R route processing modules coupled to the switch fabric (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44), wherein the first Layer 2 module transmits the first received data packet to a first one of the R route processing modules (Fig. 4, intelligent router port 103, see "routing data forwarded back to external interface step 425" recited in column 8 lines 23-30) and if the Layer 3 routing engine determines that the forwarding table does not contain the Layer 3 address associated with the first received data packet (Fig. 4, intelligent router port 103, see "when address does not exist step 420" recited in column 8 lines 9-15); regarding claim 12, wherein the switch fabric transmits the first received data packet to the first route processing module (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10) and by selecting the first route processing module using a load distribution algorithm (Fig. 1, a router 100, see "switch fabric 102 maintains distributed control" recited in column 3 lines 16-22); regarding claim 14, wherein the Layer 2 frames are Ethernet frames (Fig. 3, intelligent routing port 103, see "data link layer processing" recited in column 7 lines 48-50); regarding claim 15, wherein the Layer 3 data packets are Internet protocol (IP) data packets (Fig. 1, a router 100, see "internet protocol (IP)

packet address" recited in column 3 lines 55-65); regarding claim 16, wherein the switch fabric is a Layer 2 switch (Fig. 1, a router 100, see "layer-2 switch fabric 102" recited in column 4 lines 11-28); regarding claim 17, a switch fabric (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44), N Layer 2 modules coupled by the switch fabric (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10), if the first Layer 2 module does not recognize the Layer 2 address associated with the first received data packet, using a Layer 3 routing engine associated with the first Layer 2 module to forward the first received data packet through the switch fabric directly to a second one of the Layer 2 modules (Fig. 1, a router 100 and switch fabric 102, see "processing routing data by forwarding engine 105" recited in column 3 lines 28-47) and wherein the Layer 3 routing engine uses a Layer 3 address associated with the first received data packet to forward the first received data packet (Fig. 1, router with intelligent ports, see "generates its own routing table" recited in column 3 lines 28-33); regarding claim 19, further comprising the step of transmitting the first received data packet from the first Layer 2 module to a first one of R route processing modules (Fig. 4, intelligent router port 103, see "routing data forwarded back to external interface step 425" recited in column 8 lines 23-30), through the switch fabric (Fig. 1, a router 100, see "switch fabric 102 connected to router" recited in column 2 lines 41-44) and if the Layer 3 routing engine determines that a forwarding table associated with the Layer 3 routing engine does not contain the Layer 3 address associated with the first received data packet (Fig. 4, intelligent router port 103, see "when address does not exist step 420" recited in column 8 lines 9-15); regarding

claim 20, wherein the switch fabric transmits the first received data packet to the first route processing module (Fig. 1, a router 100, see "switch fabric 102" recited in column 3 lines 5-10) and by selecting the first route processing module using a load distribution algorithm (Fig. 1, a router 100, see "switch fabric 102 maintains distributed control" recited in column 3 lines 16-22); regarding claim 22, wherein the Layer 2 frames are Ethernet frames (Fig. 3, intelligent routing port 103, see "data link layer processing" recited in column 7 lines 48-50); regarding claim 23, wherein the Layer 3 data packets are Internet protocol (IP) data packets (Fig. 1, a router 100, see "internet protocol (IP) packet address" recited in column 3 lines 55-65) and regarding claim 24, wherein the switch fabric is a Layer 2 switch (Fig. 1, a router 100, see "layer-2 switch fabric 102" recited in column 4 lines 11-28).

Civanlar et al. does not disclose the following features: regarding claim 1, each of the N Layer 2 modules operable to receive data packets in Layer 2 frames and forward the received data packets using Layer 2 addresses associated with the Layer 2 frames; regarding claim 9, each of the N Layer 2 modules capable of receiving data packets in Layer 2 frames and forwarding the received data packets using Layer 2 addresses associated with the Layer 2 frames and regarding claim 17, a method of routing data packets in the router comprising the steps receiving a first data packet in a first Layer 2 module determining if the first Layer 2 module recognizes a Layer 2 address associated with the first received data packet (Fig. 2, router 120 receiving and processing packets, see "receiving and forwarding of Ethernet frames" recited in paragraph 0042 lines 1-10) wherein each of the N Layer 2 modules receives data packets in Layer 2 frames and

forwards the received data packets using Layer 2 addresses associated with the Layer 2 frames.

Kumar et al. discloses a communication system for a parser receiving input data according to a packet format and generating data units of interest on prespecified paths with the following features: regarding claim 1, each of the N Layer 2 modules operable to receive data packets in Layer 2 frames and forward the received data packets using Layer 2 addresses associated with the Layer 2 frames (Fig. 2, router 120 receiving and processing packets, see "receiving and forwarding of Ethernet frames" recited in paragraph 0042 lines 1-10); regarding claim 9, each of the N Layer 2 modules capable of receiving data packets in Layer 2 frames and forwarding the received data packets using Layer 2 addresses associated with the Layer 2 frames (Fig. 2, router 120 receiving and processing packets, see "receiving and forwarding of Ethernet frames" recited in paragraph 0042 lines 1-10) and regarding claim 17, wherein each of the N Layer 2 modules receives data packets in Layer 2 frames and forwards the received data packets using Layer 2 addresses associated with the Layer 2 frames (Fig. 2, router 120 receiving and processing packets, see "receiving and forwarding of Ethernet frames" recited in paragraph 0042 lines 1-10).

It would have been obvious to one of ordinary skill in the art at the time of invention was to modify the system of Civanlar et al. by using the features, as taught by Kumar et al. in order to use of the same means for N Layer 2 modules of receiving data packets in frames and forwarding them using Layer 2 addresses associated with the Layer 2 frames. The motivation for using N Layer 2 lookup modules with the parser is to

receive layer 2 information of Ethernet destination address and send it to forwarding engine for switch fabric in a cost effective manner.

Civanlar et al. and Kumar et al. do not disclose the following features: regarding claim 1, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols, regarding claim 9, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols and regarding claim 17, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols.

Johnson et al. disclose a communication system for providing security, authorization and screening service in IP network with the following features: regarding claim 1, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols (Fig. 6, illustrates an edge router, see "when the destination address of the packet is not found in the L3 forwarding table, the forwarding routine 622 the received IP address to entries in L2 to L3 resolution table 624 the MAC address" recited in paragraph 0094 lines 1-18), regarding claim 9, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols (Fig. 6, illustrates an edge router, see "when the destination address of the packet is not found in the L3 forwarding table, the forwarding routine 622 the received IP address to entries in L2 to L3 resolution table

624 the MAC address" recited in paragraph 0094 lines 1-18) and regarding claim 17, wherein if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols (Fig. 6, illustrates an edge router, see "when the destination address of the packet is not found in the L3 forwarding table, the forwarding routine 622 the received IP address to entries in L2 to L3 resolution table 624 the MAC address" recited in paragraph 0094 lines 1-18)

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the system of Civanlar et al. with Kumar et al. by using the features, as taught by Johnson et al., in order to provide if the layer 3 routing engine cannot forward the data packet, the layer 2 engine will inspect the data packet and forward the data packet according to layer 2 protocols. The motivation of using this function is to enhance the system in a cost effective manner.

7. Claims 5, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Civanlar et al. (USP 6,078,963) in view of Kumar et al. (US 2004/0156371 A1) and Johnson et al. (US 6,097 772) as applied to claims 1, 9 and 17 above, and further in view of Wybenga et al. (US 2005/0053080 A1).

Civanlar et al., Kumar et al. and Johnson et al. described the claimed limitations as discussed in paragraph 6 above. Civanlar et al. and Kumar et al. do not disclose the following features: regarding claim 5, wherein said load distribution algorithm is a round-

robin algorithm (Fig. 2, routing of data packet between IOP modules and switch fabric, see "IOP sends data packets via switch fabrics using round-robin algorithm" recited in paragraph 0027 lines 1-15); regarding claim 13, wherein said load distribution algorithm is a round-robin algorithm (Fig. 2, routing of data packet between IOP modules and switch fabric, see "IOP sends data packets via switch fabrics using round-robin algorithm" recited in paragraph 0027 lines 1-15) and regarding claim 21, wherein the load distribution algorithm is a round-robin algorithm (Fig. 2, routing of data packet between IOP modules and switch fabric, see "IOP sends data packets via switch fabrics using round-robin algorithm" recited in paragraph 0027 lines 1-15).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Civanlar et al. with Kumar et al. by using the features, as taught by Wybenga et al. in order to provide the round-robin algorithm. The motivation of using round-robin algorithm is to accomplish the requirement of redundancy in a cost effective manner.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2002/0116527 A1 (Chen et al.), US 2003/0145106 A1 (Brown), US 6,876,654 B1 (Hegde) and US 2004/0240470 A1 (Medved et al).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SYED BOKHARI whose telephone number is (571)270-

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3115. The examiner can normally be reached on Monday through Friday 8:00-17:00 Hrs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang B. Yao can be reached on (571) 272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Syed Bokhari/

Examiner, Art Unit 2616

9/11/2008

/Kwang B. Yao/

Supervisory Patent Examiner, Art Unit 2616